No. 79-1608

Supreme Court, U. S.
FILED
APR 14 1980
MICHAEL RODAK, JR., CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1980

Peter Y. Taylor, Jr., and The Peter Y. Taylor, Jr. Family Estate (A Trust), Ruth A. Taylor, Trustee,

Donald F. Donovan and Donald F. & Grace L. Donovan Family Estate (A Trust), Grace L. Donovan, Trustee,

Joe A. Madsen and A. Sharon Madsen, and the JAM Organization (A Trust), A. Sharon Madsen, Trustee,

George T. Horvat and Carol R. Horvat, and George T. Horvat Family Estate (A Trust), Carol R. Horvat, Trustee,

Peter Y. Taylor, Sr., Trustee,

Appellants,

vs.

WISCONSIN TAX APPEALS COMMISSION and MILWAUKEE COUNTY OF WISCONSIN,

Respondent.

STATEMENT OF JURISDICTION

PETER Y. TAYLOR, SR.
2905 West Wisconsin Avenue
Milwaukee, Wisconsin 53208
For all the Appellants, Pro Se

UNITED STATES LAW PRINTING CO., CHICAGO, ILLINOIS 60618 (312) 525-6581

INDEX

	PAGE
Orders and Opinions in The Courts Below	2
Grounds on which Jurisdiction is Invoked	2
Cases Believed To Sustain Jurisdiction	4
Questions Presented by The Appeal	4
Statement of the Case	5
Appendix A—Order for Judgment	App. 1
Appendix B—Order of the Wisconsin Court of Appeals	App. 3
Appendix C—Order of the Supreme Court of Wisconsin	App. 5
Appendix D—Letter from Department of Revenue to Mr. Taylor, Sr. dated July 11, 1974	App. 6
Appendix E—Letter from Department of Revenue to Mr. Taylor, Sr. dated July 22, 1974	App. 7
Appendix F—Letter from Department of Revenue to Mr. Taylor, Sr. dated March 24, 1975	App. 8
Appendix G—Letter dated March 23, 1973 from Peter Y. Taylor, Jr. to Howard T. Lynch, Director Department of Revenue	App. 9
Appendix H—Notice of Appeal	App. 17

In the
Supreme Court of the United States

OCTOBER TERM, 1980

NO.

Peter Y. Taylor, Jr., and The Peter Y. Taylor, Jr. Family Estate (A Trust), Ruth A. Taylor, Trustee,

Donald F. Donovan and Donald F. & Grace L. Donovan Family Estate (A Trust), Grace L. Donovan, Trustee,

Joe A. Madsen and A. Sharon Madsen, and the JAM Organization (A Trust), A. Sharon Madsen, Trustee,

George T. Horvat and Carol R. Horvat, and George T. Horvat Family Estate (A Trust), Carol R. Horvat, Trustee,

Peter Y. Taylor, Sr., Trustee,

Appellants,

vs.

WISCONSIN TAX APPEALS COMMISSION and MILWAUKEE COUNTY OF WISCONSIN,

Respondent.

STATEMENT OF JURISDICTION

Appellants make this statement of the basis on which they contend this Court has jurisdiction to review on this appeal the final judgment of the Supreme Court of Wisconsin.

Orders and Opinions in The Courts Below

I. Appellants appealed to the Circuit Court for Milwaukee County, Wisconsin, (in the manner provided by Wisconsin Statutes), from the action of Wisconsin Department of Revenue, in which Appellants' Constitutional Rights under the 5th and 14th Amendments were violated, said action having been affirmed by Wisconsin Tax Appeals Commission. The Circuit Court's Order is appended in Appendix A.

II. Appellants appealed to Wisconsin Court of Appeals, District I, (in the manner provided by Wisconsin Statutes), from the order of Circuit Court of Milwaukee County, Wisconsin. The order of Court of Appeals is appended in Appendix B.

III. Appellants appealed to Wisconsin Supreme Court, (in the manner provided by Wisconsin Statutes), from the order of Wisconsin Court of Appeals, District I. The order of the Court is appended in Appendix C.

Grounds on which Jurisdiction is Invoked

The Wisconsin Supreme Court states, "In those cases in which an interpretation of the Constitution of the United States or a Federal statute is involved, the losing party may seek review by the United States Supreme Court.

The date of the order of Wisconsin Supreme Court, supra, denying Appellants' Petition for Review is January 15, 1980. Clerk of Wisconsin Supreme Court remitted the record to Milwaukee County Court on January 21, 1980.

Judicial Procedure, United States Code Annotated, Title 28, at Section 1257, provides:

> Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court as follows:
>
> (2) By appeal, where is drawn in question the validity of a statute of any state on the ground of its being repugnant to the Constitution. . .

In this case, the validity of the statute, reproduced below, is made repugnant to the Constitution because it is phrased in such an all encompassing manner, e.g., "Department of Revenue . . . shall possess all powers now or hereafter granted by law", that it has resulted in the Department of Revenue arbitrarily adopting and implementing policy prohibited by Appellants' 5th and 14th Amendment Rights, without a hearing prior to the Department's action. Please refer to Department's statement of policy as contained in Appendix D and E hereto attached.

> Wisconsin Statutes, Chapter 71,
>
> Volume 1, at pages 1683—Administrative provisions; (1) General. The department of revenue and the assessor of incomes shall assess incomes as provided in this chapter and in performance of such duty the department of revenue and assessors of income shall respectively possess all powers now or hereafter granted by law to the department of revenue or assessors in the assessment of personal property and also the power to estimate incomes.

Cases Believed To Sustain Jurisdiction

Union Refrigerator Transit Company v. Kentucky,	199 U.S. 194
Home Savings Bank v. Des Moines,	205 U.S. 503
International Harvester Co. v. Missouri,	234 U.S. 199
Corliss v. Bowers,	281 U.S. 376
Hoeper v. Tax Commisison of Wisconsin,	284 U.S. 206
Wayy, Inc. v. Borough of Glassboro, et al.,	393 U.S. 117
Cohen v. California,	403 U.S. 15
Gomez v. Perez,	409 U.S. 535
Huffman v. Pursue, Ltd.,	420 U.S. 592
Hicks v. Mirenda,	422 U.S. 332
4 Corpus Juris Secundum 17	Page 93

Questions Presented by The Appeal

Did the decision and order of the Wisconsin Tax Appeals Commission violate the following provisions of the Constitutions of Wisconsin and of the United States?

(1) That "all men are born equally free and independent, and have certain inherent rights; among these are life, liberty and the pursuit of happiness; to secure these rights, governments are instituted among men, deriving their powers from the consent of the governed."

(2) That no person shall be deprived of life, liberty or property without the process of law.

(3) The constitutional provision forbidding the legislature to grant any special or exclusive rights, privileges, or immunity to any individual, corporation, or association.

(4) The provision of the fourteenth amendment to the constitution of the United States, providing, "Nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Statement of the Case

The facts applicable in this case are elements implemented by the Appellants within the context of the legal authorities cited by them in their brief to the Wisconsin Tax Appeals Commission.

1. Any citizen who works for a living has a "trade or business".

2. A citizen can choose any form in which to conduct "his trade or business".

3. Appellants herein chose to implement the form of an "equity trust".

4. Appellants' businesses consisted of vending their personal services via their individual trusts in exactly the same manner other sovereign citizens vend their personal services via service corporations.

5. The business and administration of the individual trusts are controlled by a Board of Trustees consisting of no less than five members.

6. The administration and operation of the business of the trusts is dependent on the vote of a majority of all five members.

7. The Appellants, individually, are always in a minority position on the Board of Trustees and therefore do not control either the business of the trust or the trust assets.

8. The body of the trust consists of the Declaration of Trust, the trust minutes and concomitant resolutions passed by its Board of Trustees and the initiating legal documentation recording the assets of the trust that capitalized it.

9. The Appellants are in fact Agents of the trust under the authority and direction and control of its Board of Trustees.

10. Income resulting from the vended and expended services of the individual Appellants is, in fact, owned by the individual trusts.

The Appellants first raised the issue of the violation of their rights under the 5th Amendment, U.S.C., in the tribunal of first instance, Wisconsin Tax Appeals Commission, in their brief at page 7, filed in October 1976. Similarly, Appellants first raised the issue of the violation of their rights under the 14th Amendment, U.S.C., in the same tribunal and in the same brief at page 15.

Neither the tribunal in its order nor the Respondent in its brief commented on or even recognized these critical claims raised by Appellants. They were completely ignored. The only possible reference to them is found in Respondent's brief at page 10, quote, "The brief of Appellants is but a series of random generalizations suggesting that the Appellants have a legal and constitutional right to create trusts. They have such a right, but the trusts must be valid trusts. The trusts at issue herein are not valid trusts. They are paper shells". The extent of the contempt and disdain in which Appellants and their legal position was held is reflected in the fact that Respondent declined to file a reply brief in response to Appellants' brief.

Appellants raised the same issues in the Appellate Court, Circuit Court of Milwaukee, Wisconsin, in their reply brief at page 2, under the heading, "Issues". Again, both the tribunal and the Respondent ignored Appellants' legal position and legal authorities. Their only reference mirrored and paralleled the earlier reference found in Respondent's brief at page 17, to wit: "Their brief submitted to the Wisconsin Tax Appeals Commission is a series of random generalizations suggesting their legal right to create trusts."

The following comment found in Respondent's brief to the Appellate Court, Circuit Court of Milwaukee, Wisconsin, at page 22, emphasizes the total disregard for Rule of applicable Law inherent in this case, to wit: "WISCONSIN HAS DETERMINED (emphasis added) to treat these trusts as nonentities and complete shams."

Appellants' rights were further violated in the Appellate Court when the scheduled oral argument on the merits of the case evolved into a impromtu dialog between the Court and the Appellant without the Respondent participating in any way.

In view of the foregoing, it appears patently obvious that the constitutional questions raised by the Appellants and shown in the record in the Circuit Court of Milwaukee give the United States Supreme Court jurisdiction to review the case notwithstanding that the Appellate Court of the State did not refer to the questions raised in its opinion.

The Respondent in the case, in essence the Wisconsin Department of Revenue, has had previous experience before this Court, particularly in *Hoeper* v. *Wisconsin Tax Commission,* 284 U.S. 206. Appellants include as Appendix F a communication from the Respondent wherein they accept the Court's decision in *Hoeper* and agree with the Appellants that the issue between us "will have to be litigated".

It has been over seven, long, arduous years since Appellants initiated this good faith controversy. We respectfully attach Appendix G, which marks our initial attempt to work with Respondent to absolve the fundamental questions raised in this case.

Appendix H, hereto attached, Appellants' Notice of Appeal to Milwaukee Circuit Court, filed on February 13,

1980, is unquestionably the last opportunity Appellants have to petition the Government for a redress of grievances, as guaranteed by the 1st Amendment of our so-called Bill of Rights.

This tortuous struggle to secure a definitive and unequivocal answer to the questions raised by this case, namely, [are the basic constitutional rights of the Sovereign Citizen still valid and in place?], is now in the hands of the Court of last resort, we pray.

There can be no doubt that the questions presented here are so substantial as to require plenary consideration, with briefs on the merits and oral argument, for their resolution.

It is paradoxical that, the Apocalypse trust movement, initiated in June of 1970, and designed and created primarily to prevent the financial and moral chaos which now engulfs the United States and Western Civilization, has reached the stage of final adjudication at the same instant that the gathering storm of the past decade is about to break over our heads.

We are surely at the point of no return in our Nation's history. For if we fail to return now, post haste, to the fundamental truths of our Constitution, we shall surely lose it, and its passage will usher in man's second century of the Age of Darkness. God forbid it.

Dated at Milwaukee, Wisconsin, this ..... day of April, 1980.

Respectfully submitted,

PETER Y. TAYLOR, SR.
Appellants, Pro Se.

APPENDIX

APPENDIX A

STATE OF WISCONSIN MILWAUKEE COUNTY
CIRCUIT COURT

Peter Y. Taylor, Jr., and The Peter Y. Taylor, Jr., Family Estate (a trust), Ruth A. Taylor, Trust Secretary, Trustee,
Petitioners,

and

Donald F. Donovan, and Donald F. & Grace L. Donovan Family Estate (a trust), Grace L. Donovan, Trust Secretary, Trustee,
Petitioners,

and

Joe A. Madsen, A. Sharon Madsen, The JAM Organization (a trust), A. Sharon Madsen, Trust Secretary, Trustee,
Petitioners,

and

George T. Horvat, Carol R. Horvat, George T. Horvat Family Estate (a trust), Carol R. Horvat, Trust Secretary, Trustee,
Petitioners,

v.

WISCONSIN DEPARTMENT OF TAXATION,
Respondent.

Before: Hon. Ralph G. Gorenstein, Circuit Judge

ORDER FOR JUDGMENT
Case No. 458-330

The above-entitled ch. 227 review proceeding having been heard by the court on the 15th day of January, 1979, at

the courthouse in the City of Milwaukee; and the petitioners having appeared by Peter Y. Taylor, Sr.; and the respondent Department having appeared by Assistant Attorney General Allan P. Hubbard; and the court having had the benefit of the argument and briefs of counsel, and having rendered its oral decision wherein judgment was directed to be entered as herein provided;

It is ordered and adjudged that the four separate decisions and orders of the Wisconsin Tax Appeals Commission dated September 15, 1977, entered in the matters of

Peter Y. Taylor, Jr., and the Peter Y. Taylor, Jr., Family Estate (a trust), Ruth A. Taylor, Trust Secretary, Trustee	Commission's Docket Number I-4309
Donald F. Donovan and Donald F. and Grace L. Donovan Family Estate (a trust), Grace L. Donovan, Trust Secretary, Trustee	Commission's Docket Number I-5018
Joe A. Madsen and A. Sharon Madsen, and the JAM Organization (a trust), A. Sharon Madsen, Trust Secretary, Trustee	Commission's Docket Numbers I-5020 and I-5021
George T. Horvat and Carol R. Horvat, and George T. Horvat Family Estate (a trust), Carol R. Horvat, Trust Secretary, Trustee	Commission's Docket Numbers I-5045 and I-5046

be, and the same hereby are, affirmed.

Dated this 29th day of January, 1979.

By The Court:

/s/ Ralph G. Gorenstein

Ralph G. Gorenstein, Circuit Judge

filed 1-29-79

APPENDIX B

DISTRICT I

Office of the Clerk
COURT OF APPEALS
OF WISCONSIN

Marilyn L. Graves
Clerk

Madison, September 20, 1979

To: Peter Y. Taylor, Sr.
2905 W. Wisconsin Avenue
Milwaukee, WI 53208

Allan P. Hubbard, 316-L
Asst. Attorney General

Hon. Ralph G. Gorenstein
901 N. Ninth Street
Milwaukee, WI 53233

You are hereby notified that the Court entered the following order:

79-288 Peter Y. Taylor, Jr., and The Peter Y. Taylor, Jr. Family Estate (A Trust), Ruth A. Taylor, Trustee, et al v. Wisconsin Department of Revenue

Before Decker, C.J., Moser, P.J., and Cannon, J.

This appeal is taken from a judgment of the circuit court, the Honorable Ralph G. Gorenstein, presiding, which affirmed decisions and orders of the Wisconsin Tax Appeals Commission which denied the appellants' application for abatement of income tax assessments.

The Department of Revenue, the respondent on appeal, has moved this court, pursuant to Rule 809.19, for an order striking the brief. The court has considered the response

of the appellants to this motion and has concluded that the brief should not be stricken.

The Department of Revenue has also moved for summary affirmance of the judgment pursuant to Rule 809.21. After reviewing the record, the appellant's brief, and the memorandum in support of the motion, the court has concluded that this motion should be granted.

The issue on appeal is whether the individual appellants can transfer the tax burden on compensation earned individually by them to a family trust because they have transferred and assigned their earned income for lifetime services to family trusts. *We have concluded that they cannot. Lucas* v. *Earl,* 281 U.S. 111 (1930); *George T. Horvat & Carol R. Horvat* v. *Commissioner of Internal Revenue* [Dec. 34, 352(m)], T.C. Memo 1977-104 (affirmed per curiam by unpublished order, 7th Cir., June 7, 1978); *Ronald E. Morgan & Carol L. Morgan* v. *Commissioner* [Dec. 34, 454(m)] T.C. Memo 1978-401, filed October 5, 1978. The authorities cited by the appellants, including *Hoeper* v. *Tax Commission of Wisconsin,* 284 U.S. 206 (1931), do not support their contention.

Upon the foregoing reasons,

IT IS ORDERED that the motion to strike the appellant's brief, pursuant to Rule 809.19, is denied.

IT IS FURTHER ORDERED that the motion to summarily affirm the judgment appealed from is granted, pursuant to Rule 809.21, and the judgment is summarily affirmed.

Marilyn L. Graves
Clerk of Court of Appeals

APPENDIX C

Office of the Clerk
SUPREME COURT
State Of Wisconsin

Madison, January 15, 1980

To Peter Y. Taylor, Sr., Trustee
2905 West Wisconsin Avenue
Milwaukee, WI 53208
Allan P. Hubbard
Assistant Attorney General
123 West Washington Avenue, Room 316-L
Madison, WI 53702

The Court today announced an order in your case as follows:

No. 78-288—*Peter Y. Taylor, Jr., and The Peter Y. Taylor, Jr. Family Estate (A Trust), et al. v. Wisconsin Department of Revenue*

The court having considered the petitioners-appellants' petition to review an adverse order of district [illegible] of the court of appeals dated September 20, 1979,

IT IS ORDERED the petition is denied. No costs.

Marilyn L. Graves
Clerk of Supreme Court.

APPENDIX D

State of Wisconsin / DEPARTMENT OF REVENUE

July 11, 1974

Peter Y. Taylor, Sr.
Consultant
The Melt Organization (A Trust)
2905 West Wisconsin Avenue
Milwaukee, Wisconsin 53208

Dear Mr. Taylor:

In your letter dated June 27, 1974 you suggested that we issue refunds based on returns filed by Apocalypse Members and later audit the returns and make whatever adjustments we deem necessary.

While it is my intent to cooperate with you in expediting the resolution of these matters through the Judicial process, I cannot proceed in the manner you suggest.

It is our policy not to issue a refund on a return when it appears such refund may be in error. Therefore, to the extent that information is requested of Apocalypse Members, it will be necessary to furnish such information so we may complete our audit. You may then appeal any action taken by us on the returns filed and in that way present this issue for resolution in the Judicial system.

Sincerely,

James R. Wise
J. R. Wise, Chief
Central Audit Section

JRW:mm
cc: D. D. Peterson
R. L. Peters

APPENDIX E

State of Wisconsin / DEPARTMENT OF REVENUE
Income, Sales, Inheritance & Excise
Tax Division

July 22, 1974

Peter Y. Taylor Sr.
2905 West Wisconsin Avenue
Milwaukee, Wisconsin 53208

Re: Stephen D. Horvat
729 North 42nd Street
Milwaukee, Wisconsin 53208
395 42 0065

Dear Sir:

We have received your response to the notice of May 30, 1974 addressed to Mr. Horvat.

It does not appear to be necessary to restate the position of the Wisconsin Department of Revenue in respect to the issue in this case. That issue, as you know, has been presented in accordance with the Wisconsin Statutes to the Wisconsin Tax Appeals Commission for a decision.

To issue refunds on the basis of the returns as filed when there is a dispute as to the correct tax liability *would be contrary to Department policy.* Because of expediency in processing, it is possible that certain refunds are processed without immediate audit. Those returns, however, are subject to subsequent audit. That fact does not, in our opinion, justify or require refunds based on the returns in all cases.

This file will be held by the Appellate Bureau. We have no control over when the Wisconsin Tax Appeals Commission will issue a decision in respect to this issue.

Lyle P. Jensen
Lyle P. Jensen
Conferee

LPJ:kmn
cc: Stephen D. Horvat

APPENDIX F

State of Wisconsin / DEPARTMENT OF REVENUE
Income, Sales, Inheritance & Excise
Tax Division

March 24, 1975

The Melt Organization
2905 West Wisconsin Avenue
Milwaukee, Wisconsin 53208

Attention: Peter Y. Taylor Sr.

Gentlemen:

Your memo of March 10, 1975, addressed to Mr. Jensen, has been referred to me for reply.

You are advised that this Department has accepted the order of the Court as stated in the case, "Hoeper v. *Tax Commission of Wisconsin,* 1931, 284 U.S. 206". However, it is our opinion that this case is not applicable in regard to the assignment of future earnings and this specific issue will have to be litigated.

Conrad A. Oleson
Conrad A. Oleson
Director, Appellate Bureau

CAO:kmn

cc: Robert W. Winkler
5974 South Kurtz Road
Hales Corners, Wisconsin 53130

APPENDIX G

PETER Y. TAYLOR, Jr. FAMILY ESTATE (A Trust)
4202 Barnett Street
Madison, Wisconsin 53704

23 March 1973

Howard T. Lynch, Director
Fiduciary, Inheritance and Gift Tax Bureau
STATE of WISCONSIN / Department of Revenue
Post Office Box 74
Madison, Wisconsin 53701

Dear Sir:

We are happy to acknowlege receipt of your communication dated 20 February 1973 addressed to Peter Y. Taylor, Jr., in which you indicate an assessment of additional taxes and interest in the amount of fifty-eight dollars and fifty five cents ($58.55); based upon an audit adjustment made in your office on Mr. Taylor's personal tax return for 1971.

If it is legally necessary, you may consider this letter as a "written objection", but for our part, such an expression might be a little too harsh. We would prefer to refer to it as our contribution to an amicable dialog whose purpose is to inform you completely on our position and thus answer any questions you may have, and in the process arrive at a complete, equitable and mutual solution to any possible misunderstanding.

You will recall receiving a certified copy of the Declaration of Trust for the Peter Y. Taylor, Jr. Family Estate (A Trust), said Trust having been created on June 24, 1971. THIS CONTRACT was activated on June 30, 1971 when Peter Y. Taylor, Jr. IRREVOCABLY CONVEYED

his personal property to the Trust by executing on that date a Bill of Sale and an Affidavit consumating THIS CONTRACT between himself and the Accepting Trustees, who did issue to Taylor on that date all the one hundred units of beneficial interest in the Trust, in a fair and equal exchange.

Mr. Taylor thereby divested himself of ownership and title in fee simple in the personal property that was irrevocably conveyed. Under these circumstances, he was compelled to relay your communication to the Board of Trustees whose responsibility it is to reply to your communication. They trust that if this reply fails to reach you within the thirty day period you indicated, that you will make a reasonable allowance for the necessary delay.

As you have indicated, the *office audit adjustment that you made* was predicated on a U.S. Supreme Court decision in Lucal v. Earl, 2 USTC 496 (281 U.S. 111), whereby the Court correctly interpreted the Revenue Act of 1918 which imposes a tax upon the net income of every individual including "income derived from salaries, wages, or compensation for personal service . . . of whatever kind and in whatever form paid". We concur completely with this interpretation of the Act. Could there be any other interpretation? Likewise, we agree that it is quite impossible for an Attorney to split his fees with his wife on a 50-50 basis, unless in fact she is a bona fide member of the firm and fully engaged in the practice of law.

However, perhaps we ALL owe a debt of gratitude to Mr. and Mrs. Earl for their valiant effort in this regard. Perhaps their effort made a strong contribution to the later evolution in the Revenue Act which developed the benefits now enjoyed by MAN and WIFE via The Joint Return.

In any case, LUCAS v. EARL certainly is not in point nor was your decision to assess Peter Y. Taylor, Jr. addi-

tional personal taxes with interest for 1971 appropriate, for the following reasons:—

1. Taylor did not and does not share with or assign to anyone any portion of his earned remuneration as a self employed contractor.
2. Taylor did in fact IRREVOCABLY CONVEY by CONTRACT his lifetime services and the remuneration therefrom (his personal property) said contract going into effect on the 30th day of June 1971. And, his Constitutional Right so to do is supported by:—

   PRUDENTIAL INS. CO. v. *CHEEK*—259 U.S. 530
   That freedom in the making of contracts of personal employment, by which labor and other services are exchanged for money or other forms of property, is an elementary part of the rights of personal liberty and private property, not to be struck down directly or arbitrarily interfered with, consistently with the due process of law guaranteed by the Fourteenth Amendment, we are not disposed to question. This court has affirmed the principle in recent cases.

   ADAIR v. *UNITED STATES*—208 U.S. 161
   While the rights of liberty and property guaranteed by the Constitution against deprivation without due process of law, are subject to such reasonable restrictions as the common good or general welfare may require, it is not within the functions of government—at least in the absence of contract—to compel any person in the course of his business, and against his will, either to employ, or be employed by, another. An employer has the same right to prescribe terms on which he will employ one to labor as an employee has to prescribe those on which he will sell his labor, and any legislation which disturbs this equality is an arbitrary and unjustifiable interference with liberty of contract.

CURRENCE v. *WARD*—43 W. Virginia 368
A Trust may exist in any property, real or personal, which is in the eye of a court of equity, property of value.

BROOMS LEGAL MAXIMS
The effect and operation of agreements relating to future property is, indeed, different at law and in equity. AT LAW property non-existing is not assignable; IN EQUITY it is so.

AT LAW, although a power is given in the deed of assignment to the possession of after-acquired property, no interest is transferred, even as between the parties themselves, unless possession is actually taken;

IN EQUITY, the moment property comes into existence the agreement operates upon it.

3. There can be no dispute when it comes to Taylor's Constitutional Rights to create The Peter Y. Taylor, Jr. Family Estate (A Trust).

CLEWS v. *JAMIESON*—182 U.S. 461
Pomeroy in his work on Equity Jurisprudence, second edition, instances, among other equitable estates and interests which come within the jurisdiction of a court of equity, those of trusts. In volume one, at section 151, he says: "The whole system fell within the exclusive jurisdiction of chancery; the doctrine of trusts became and continues to be the most efficient instrument in the hands of a chancellor for maintaining justice, good faith, and good conscience; and it has been extended so as to embrace not only lands, but chattels, funds of every kind, things in action, and moneys."

ELIOT v. *FREEMAN*—220 U.S. 178
A trust of the character of those here involved can hardly be said to be organized, within the ordinary meaning of that term; it certainly is not organized under statutory laws as corporations are.

The difference between joint stock associations at common law and those organized under statutes is well recognized (Cook on Corporations, 505):

The two cases now under consideration embrace trusts which do not derive any benefit from and are not organized under the statutory laws of Massachusetts. ((In our case—Wisconsin))

These trusts do not have perpetual succession, but end with lives in being and twenty years thereafter.

Entertaining the view that it was the intention of Congress to embrace within the corporation tax statute only such corporations and joint stock associations as are organized under some statute, or derive from that source some quality or benefit not existing at the common law, we are of opinion that the real estate trusts involved in these two cases are not within the terms of the act.

McCRACKEN v. *HAYWARD*—43 U.S. Sup. Ct. 608
In placing the obligation of contracts under the protection of the Constitution, its framers looked to the essentials of the contract more than to the forms and modes of proceeding by which it was to be carried into execution; annulling all state legislation which impaired the obligation, it was left to the states to prescribe and shape the remedy to enforce it. The obligation of a contract consists in its binding force on the party who makes it. This depends on the laws in existence when it is made; these are necessarily re-

ferred to in all contracts, and forming a part of them as the measure of the obligation to perform them by the one party, and the right acquired by the other. There can be no other standard by which to ascertain the extent of either, than that which the terms of the contract indicate, according to their settled meaning; when it becomes consummated, the law defines the duty and the right, compels one party to perform the thing contracted for, and gives the other a right to enforce the performance by the remedies then in force. If any subsequent law affect to diminish the duty, or to impair the right, it necessarily bears on the obligation of the contract, in favour of one party, to the injury of the other; hence any law, which in its operation amounts to a denial or obstruction of the rights accruing by a contract, though professing to act only on the remedy, is directly obnoxious to the prohibition of the Constitution.

4. There can be no dispute when it comes to the Board of Trustees making a distribution to beneficiaries and no dispute when the beneficiaries pay a tax on the funds they receive.

BLAIR v. *COMMISSIONER*—300 U.S. 5 (1937)
The one who is to receive the income as the owner of the beneficial interest is to pay the tax. If under the law governing the trust the beneficial interest is assignable, and if it has been assigned without reservation, the assignee thus becomes the beneficiary and is entitled to rights and remedies accordingly. We find nothing in the revenue acts which denies him that status. . . .

From this it is urged that the assignments "dealt only with a right to receive the income" and that "no attempt was made to assign any equitable right, title or interest in the trust itself.". . .

We conclude that the assignments were valid, that the assignees thereby became the owners of the specified beneficial interests in the income, and that as to these interests they and not the petitioner was taxable for the tax years in question.

The foregoing statements of fact and supporting case laws make up some of the reasons the Board of Trustees set forth the following items of adjustment that they claim are incorrect:—

A — The Department has no right at law to ignore the Trust created, nor to assign its tax paid in the amount of sixteen dollars and ten cents ($16.10) as a credit to Taylor's personal tax for 1971.

B — The Department has no right at law to rescind distributions made to the beneficiaries in the amount of three hundred and seven dollars and fifty cents ($307.50) each, and remove said amounts from the individual tax payer's taxable income.

C — The Department has no right at law to obviate the Trust's reportable income and assign it to Taylor.

EDWARDS v. *KEARZEY*—96 U.S. 600
The remedy subsisting in State when and where a contract is made, and is to be performed, is a part of its obligation; and any subsequent law of the State, which so affects that remedy as substantially to impair and lessen the value of the contract, is forbidden by the Constitution of the United States, and, therefore, void.

The legal persons involved in this case, namely; the Trust, Peter Y. Taylor, Jr., and Ruth A. Taylor have complied completely with the rules and regulations of both the Internal Revenue Service and the Wisconsin Department of

Revenue by filing timely reports of their respective taxable incomes and have remitted the taxes due and payable.

> IT APPEARS THAT, a limitation is unreasonable which does not, before the bar takes effect, afford full opportunity for resort to the courts for the enforcement of the rights upon which limitation is intended to operate; and this opportunity must be accorded in respect of existing rights of action after they come within the present or prospective operation of the statute and in respect of prospective rights after they accrue.

CONCLUSION: In the face of the foregoing statement of facts and the overwhelming support provided by case law, we respectfully suggest that your additional assessment be nullified and withdrawn and that the Trust be credited with the tax it remitted to you.

The Board of Trustees has directed me to reaffirm their desire to work with you in absolving any question you may still have in regards to our position on this subject, that is, within the limits of their restrictions placed upon them by the Trust Indenture, the Trust's Minutes and applicable law.

And, they further direct me to ask you to direct any further correspondence or communications in any form to the Board of Trustees, in as much as Peter Y. Taylor, Jr. has no controlling, management position in the affairs of the Trust.

Very truly yours,
Ruth A. Taylor
Ruth A. Taylor,
Trust Secretary

cc: The Board of Trustees

APPENDIX H

STATE OF WISCONSIN

CIRCUIT COURT MILWAUKEE COUNTY

Case No. 458-330

Peter Y. Taylor, Jr., and The Peter Y. Taylor, Jr. Family Estate (A Trust), Ruth A. Taylor, Trustee,

Donald F. Donovan and Donald F. & Grace L. Donovan Family Estate (A Trust), Grace L. Donovan, Trustee,

Joe A. Madsen and A. Sharon Madsen, and The JAM Organization (A Trust), A Sharon Madsen, Trustee,

George T. Horvat and Carol R. Horvat, and George T. Horvat Family Estate (A Trust), Carol R. Horvat, Trustee,

Peter Y. Taylor, Sr., Trustee,

Petitioners-Appellants,

-vs-

Wisconsin Department of Revenue,

Respondent-Appellee.

NOTICE OF APPEAL
to
U.S. SUPREME COURT

TO: Mr. Francis X. McCormack
Clerk of Courts
Milwaukee County Court House
901 North 9th Street
Milwaukee, Wisconsin 53233

Sir:

Please take notice that Petitioners, by Peter Y. Taylor, Sr., principal of ALL the Petitioners, hereby appeals to the United States Supreme Court from the Order of the Wisconsin Supreme Court, entered the 15th day of January 1980, said Order having denied the Petitioners' petition to appeal the decision of the Court of Appeals, District I, wherein the Court affirmed the judgment rendered in Circuit Court of Milwaukee County, Branch 25, The Honorable Ralph G. Gorenstein, presiding, in favor of the Wisconsin Department of Revenue and against the Petitioners, wherein the Court failed to uphold, protect and sustain the Petitioners' Constitutional rights. Jurisdiction is founded upon provisions of Section 1257 of 28 U.S.C.

Dated at Milwaukee, Wisconsin this 13th day of February, 1980.

Respectfully submitted,

Peter Y. Taylor, Sr.
Peter Y. Taylor, Sr., Trustee
Principal of ALL the Petitioners

Post Office Address:
2905 West Wisconsin Avenue
Milwaukee, Wisconsin 53208

AFFIDAVIT OF MAILING

STATE OF WISCONSIN)
) SS
COUNTY OF MILWAUKEE)

Peter Y. Taylor, Sr., being first duly sworn, says that on the 13th day of February, 1980, he mailed in a sealed envelope, postage prepaid, a copy of the attached *Notice of Appeal to the U.S. Supreme Court* to each of the following:

(1) Allan P. Hubbard
Assistant Attorney General
The State of Wisconsin
Department of Justice
Madison, Wisconsin 53702

(2) Wisconsin Department of Revenue
State Office Building
201 East Washington Avenue
Madison, Wisconsin 53702

Subscribed and sworn to before me
this 13th day of February, 1980.
R. G. Brosseatti, Sr.
Notary Public, State of Wisconsin
My Commission expires: Sept. 7, 1980.